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Paper No. 10

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OFFICE OF PETITIONS

In re Application of. :
Ware et al. :
Application No. 10/053,340 : ON PETITION
Filed: 22 October, 2001 :
Attorney's Docket No. 1726.7220701 :

This is a decision on the petition filed on 2 August, 2002, which is treated as a petition requesting that the Notice mailed on 14 June, 2002, be withdrawn. The Office apologizes for the delay in responding to the present petition.

The petition is granted.

The application was filed on 22 October, 2001.

Accordingly, on 14 June, 2002, Initial Patent Examination Division mailed a Notice of Omitted Item(s) in a Nonprovisional Application, stating that the application had been accorded a filing date of 22 October, 2001, but that Pages 26, 34, 38, 42, 83, 91, 105, and 108 of the specification (description and claims) appeared to have been omitted.

In response, on 2 August, 2002, the present petition and a copy of, *inter alia*, the specification was filed. Petitioners argue that Pages 26, 34, 38, 42, 83, 91, 105, and 108 were filed with the other application papers on 22 October, 2001, but were subsequently misplaced in the U.S. Patent and Trademark Office (Office). In support, a copy of petitioners' postcard receipt was supplied with the present petition. The postcard receipt shows an Office date stamp of 10/22/01, the above-identified application number, and identifies the application by first named inventor's name, invention title and attorney docket number, and acknowledges receipt of, *inter alia*, "129 pages of specification." Petitioners request that the application,

including Pages 26, 34, 38, 42, 83, 91, 105, and 108 of the specification, be accorded a filing date of 22 October, 2001.

A review of the record reveals that Pages 26, 34, 38, 42, 83, 91, 105, and 108 of the specification are not located among the pages of specification, including claims, and abstract received on 22 October, 2001. However, the evidence is convincing that the application papers deposited on 22 October, 2001, included 129' pages of specification, and Pages 26, 34, 38, 42, 83, 91, 105, and 108 thereof were subsequently misplaced in the Office. Therefore, the application, including Pages 26, 34, 38, 42, 83, 91, 105, and 108 of the specification, is entitled to a filing date of 22 October, 2001.

The "Notice" mailed on 14 June, 2002, is withdrawn.

In view of the above, the petition is granted. No petition fee is due and none has been paid.

The application will be processed with the copy of Pages 26, 34, 38, 42, 83, 91, 105, and 108 of the specification supplied on 2 August, 2002, as a part of the original disclosure. The copies of the other application papers supplied on 2 August, 2002, will not be used for processing or examination, but will be retained in the application file.

The application is being returned to Initial Patent Examination Division for further processing with a filing date of 22 October, 2001, using the application papers filed on that date, and the copy of Pages 26, 34, 38, 42, 83, 91, 105, and 108 of the specification supplied with the present petition.

Telephone inquiries should be directed to the undersigned at 703-308-6918.



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